REMARKS

Claims 1-26 are cancelled without prejudice. Claims 27-38 were previously withdrawn in view of a restriction requirement. New claims 39-59 are added. After entry of this amendment, claims 39-59 will be pending.

Claim 39 specifies applicant's food holding apparatus as comprising:

a) a cabinet having a plurality of holding compartments for holding pre-cooked food therein;

b) a heat source in each compartment of said plurality of compartments for delivering heat to the food in the compartment; and

c) a control mechanism programmed to vary the heat delivered by each heat source to the food in a respective holding compartment through a duration of holding time, said duration comprising a first phase during which the heat source operates at a first level and the food reaches said selected holding temperature, a second phase during which the heat source operates at a second level different from said first level to hold the food at said selected holding temperature, and a third phase at which the heat source operates at a third level different from said first and second levels to maintain the food at said selected holding temperature.

The prior art of record, including Arnold et al. U.S. Patent No. 6,011,243, fails to show food holding apparatus having a control mechanism which is programmed to vary the delivery of heat by the heat sources in the compartments to deliver heat in the manner described in claim 39, that is, in three separate phases during which a heat source operates at three distinct and different levels. For example, as illustrated in Fig. 9B and described in paragraph [0040] of the pending application, a heat source is operated at 100% of maximum power during a first phase $P_1$ of a holding duration D to bring the temperature of the pre-cooked food up to the desired holding temperature as quickly as possible, at 0% of maximum power during a second phase $P_2$ of the holding duration to allow the temperature of the food to stabilize at the selected holding temperature, and at 25% of maximum power during a third phase $P_3$ of the holding duration to maintain the food at the selected holding temperature while using less power than in the first phase to extend the quality of the food. In Arnold et al., the control system controls the top and

bottom heater plates 18a, 18b in each passageway 14a-d to maintain the temperature of each passageway and the food stored there within a predetermined temperature range (see paragraph bridging columns 4 and 5). However, there is no disclosure or suggestion of applicant's 3-phase, 3-energy level feature and the attendant advantages thereof. The other prior art of record is similarly devoid of any such teaching.

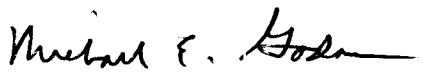
Accordingly, claim 39 is submitted to be allowable over the prior art. Claims 40-59 depend, either directly or indirectly, from claim 39 and are believed to be patentable for the same reasons as claim 39. Further, these claims identify additional features of applicant's invention, some of which are disclosed in U.S. Patent No. 7,105,779 which issued from parent application Ser. No. 10/680,626, filed October 7, 2003, which is incorporated by reference in the pending application. In this regard, it will be noted that claims 40 and 41 are directed to a heating program of the type described in Figs. 9A and 9B of the pending application, and that claims 42-44 are directed to the bottom-wall heater design shown in Fig. 5 of the pending application. On the other hand, claims 45 and 46 are directed to a heating program of the type described in Figs. 22A and 22B of parent application Ser. No. 10/680,626, now U.S. Patent No. 7,105,779, and claim 47 is directed to the overhead heater design shown in the parent application. The disclosure of the parent application is incorporated by reference in the present application (see paragraph [0001]) of the pending application. 37 CFR 1.57(c) permits such "essential material" to be incorporated by reference. However, if the examiner prefers, the undersigned will submit a substitute specification which adds the disclosure of the parent application.

Applicant also files herewith a Supplemental Information Disclosure Statement. The fee for this IDS and any other fees should be charged to Deposit Account No. 19-1345.

## CONCLUSION

In view of the foregoing, favorable consideration and allowance of this application is requested.

Respectfully submitted,



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